

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. 17445 of 2013

and

M.P. 1 of 2013

D.Raja

... Petitioner

Vs

1. The State of Tamil Nadu,
by its Secretary,
Home Department,
Secretariat,
Chennai.
2. The Superintendent of Police,
Villupuram District,
Villupuram.
3. Ezhumalai,
Inspector of Police
Roshanai Police Station,
Tindivanam.
4. Sudhakar,
Inspector of Police,
Town Station,
Tindivanam.
5. Nandagopal,
Sub-Inspector of Police,
Town Station,
Tindivanam.
6. The Superintendent of Jails,
Cuddalore Central Prison,
Cuddalore.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents herein not to either intimidate or

harass the petitioner's brother Senthil @ Periyasenthil infringing his fundamental rights guaranteed under Constitution of India together with payment of compensation of Rs.5,00,000/- to the petitioner's brother Senthil @ Periya Senthil for the torture and mental agony.

For Petitioner : Mr.D.Ravichander
For Respondents : Mr.I.Sathish,
Addl. Govt. Pleader

O R D E R

This Writ Petition has been filed seeking a compensation for custodial violence undergone by petitioner's brother one Senthil @ Periyasenthil.

2. According to the petitioner, his brother has been arrested by the respondents 3 to 5 in a criminal case foisted under the Tamil Nadu Prohibition Act, and he was brutally beaten up in the police station. Thereafter, he was produced before the learned Judicial Magistrate No.1, Tindivanam, wherein the accused has made a complaint to the learned Judicial Magistrate. While remanding the accused, the learned Judicial Magistrate directed the police officials to take the petitioner to the hospital for treatment. But, despite the order, he was not taken to the hospital for treatment, and he was remanded to custody in Central Prison, Cuddalore. Hence, the petitioner has made representation to the authorities alleging that, his brother had undergone custodial violence, but that representation was not considered. Hence, the petitioner has filed the present Writ Petition.

3. The 3rd respondent has filed a counter affidavit stating that, the petitioner's brother involved in 11 criminal cases under the Tamil Nadu Prohibition Act. Further, in some cases, non-bailable warrant are also pending against him. On 18.06.2013, while the respondents 3 to 6 conducting prohibition raid, the petitioner's brother Senthil @ Periya Senthil was selling poisonous arrack, and hence, he was arrested. Thereafter, he was produced before the learned Judicial Magistrate No.1, Tindivanam, for remand, wherein he has made a false statement that he was assaulted by the police. In pursuant to the same, the learned Judicial Magistrate recorded his submissions and forwarded him to the hospital for treatment, wherein the Doctor examined and found no external injuries, however, the accused has complained only pain on his left forehead. After examination, he was handed over to the prison authorities, and the prison authorities also have not found any custodial violence as alleged by the petitioner.

4. The 4th respondent has also filed a counter statement denying the custodial violence.

5. I have heard and considered the rival submissions made by learned counsel appearing for the petitioner as well as learned Addl. Government Pleader appearing for the respondents, and perused the materials available on record.

6. The petitioner's brother said to have undergone custodial violence. According to him, while the petitioner's brother was in police custody, he was assaulted by the police, and he was not given any medical treatment despite the order passed by the learned Judicial Magistrate. Earlier, at the time of admission of Writ Petition, considering the request made by the petitioner by an order dated 28.06.2015, this Court directed the Superintendent of Central Prison, Cuddalore to produce the petitioner's brother in the Government Hospital, Cuddalore for medical examination. In pursuant to the same, he was also produced before the Government Hospital, Cuddalore and the R.M.O. also filed a report, which reads as follows :-

"I have examined the above person on 03.07.2013 at Government Headquarters Hospital, Cuddalore. He complains of pain both buttocks.

On examination, patient is conscious.

Ambulant, vital signs are stable,

Cardiovascular and respiratory system - normal

Abdomen - soft.

External injuries : Old heated multiple linear scars on both buttocks measuring 10=15 cms.

Non-tender

No other injury present.

He does not require hospitalisation at present.

He may be treated as outpatient.

7. On perusal of the report, it is seen that, there is no injuries found in the body of the petitioner's brother. Apart from that, there is no other materials available on record to show that, the petitioner's brother has suffered any custodial violence. In the above circumstances, in absence of any materials to establish that, the petitioner's brother undergone custodial violence, the prayer sought by the petitioner cannot be granted. Hence, the Writ Petition is liable to be dismissed. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition in M.P.1 of 2013 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
by its Secretary,
Home Department,
Secretariat, Chennai.
2. The Superintendent of Police,
Villupuram District,
Villupuram.
3. Inspector of Police
Roshanai Police Station,
Tindivanam.
4. Inspector of Police,
Town Station, Tindivanam.
5. Sub-Inspector of Police,
Town Station, Tindivanam.
6. The Superintendent of Jails,
Cuddalore Central Prison,
Cuddalore.

+1cc to the Government Pleader, Sr.No.95621

+1cc to Mr.D.Ravichander, Advocate, Sr.No.95720

W.P. 17445 of 2013
and
M.P. 1 of 2013

SSD(CO)
GS(12/08/2020)

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